

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 484**

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**Introduced by Senator Beall**

(Principal coauthor: Assembly Member Chiu)

**(Coauthors: Senators Mitchell and Monning)**

February 26, 2015

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An act to amend Section 1536 of, and to add Sections 1538.8 and 1538.9 to, the Health and Safety Code, and to amend Section 11469 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 484, as amended, Beall. Juveniles.

(1) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including foster family homes and group homes, by the State Department of Social Services. A violation of this act is a misdemeanor.

Existing law requires the department director, at least annually, to publish and make available to interested persons a list covering all licensed community care facilities, except as specified, and the services for which each facility has been licensed or issued a special permit.

This bill would require the department director to compile specified information regarding ~~administering~~ *the administration of* psychotropic medications to children in those facilities and to post that information to the department's Internet Web site. The bill would require the department to establish a methodology to identify those group homes that have disproportionately high *and inappropriate* levels of

psychotropic drug ~~usage~~ *usage, based on specified criteria*. The bill would also require the department, for the facilities identified by the methodology that it establishes, to visit those facilities at least once a year to examine specified ~~factors that contribute to the high utilization of psychotropic medications~~ *factors*. The bill would require a facility that is found to have ~~a high utilization of dangerous psychotropic medication regimens and disproportionately high and inappropriate levels of psychotropic drug usage, which may be caused by inadequate alternative, alternative and less invasive psychosocial, psychosocial services, crisis management, and other services~~, to submit a plan to address steps the facility shall take to reduce inappropriate prescribing and treatment regimens within ~~60~~ 30 days of ~~the visit~~ *receiving notice of the department's determination*. The bill would require the department to monitor the facility's implementation of that plan and make a report, as provided. Because this bill would create a new crime, the bill would impose a state-mandated local program.

(2) Existing law requires the department, on or before January 1, 2016, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts with minors in group homes or under supervision of group home staff.

This bill would require the department, on or before January 1, 2017, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to reduce utilization of psychotropic medications for children in group homes. The bill would also delete an obsolete provision.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1536 of the Health and Safety Code is  
2 amended to read:

1 1536. (a) (1) At least annually, the director shall publish and  
2 make available to interested persons a list or lists covering all  
3 licensed community care facilities, other than foster family homes  
4 and certified family homes of foster family agencies providing  
5 24-hour care for six or fewer foster children, and the services for  
6 which each facility has been licensed or issued a special permit.

7 (2) For a group home, transitional housing placement provider,  
8 community treatment facility, or runaway and homeless youth  
9 shelter, the list shall include both of the following:

10 (A) The number of licensing complaints, types of complaint,  
11 and outcomes of complaints, including citations, fines, exclusion  
12 orders, license suspensions, revocations, and surrenders.

13 (B) The number, types, and outcomes of law enforcement  
14 contacts made by the facility staff or children, as reported pursuant  
15 to subdivision (a) of Section 1538.7.

16 (b) Subject to subdivision (c), to encourage the recruitment of  
17 foster family homes and certified family homes of foster family  
18 agencies, protect their personal privacy, and to preserve the security  
19 and confidentiality of the placements in the homes, the names,  
20 addresses, and other identifying information of facilities licensed  
21 as foster family homes and certified family homes of foster family  
22 agencies providing 24-hour care for six or fewer children shall be  
23 considered personal information for purposes of the Information  
24 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)  
25 of Title 1.8 of Part 4 of Division 3 of the Civil Code). This  
26 information shall not be disclosed by any state or local agency  
27 pursuant to the California Public Records Act (Chapter 3.5  
28 (commencing with Section 6250) of Division 7 of Title 1 of the  
29 Government Code), except as necessary for administering the  
30 licensing program, facilitating the placement of children in these  
31 facilities, and providing names and addresses only to bona fide  
32 professional foster parent organizations upon request.

33 (c) Notwithstanding subdivision (b), the department, a county,  
34 or a foster family agency may request information from, or divulge  
35 information to, the department, a county, or a foster family agency,  
36 regarding a prospective certified parent, foster parent, or relative  
37 caregiver for the purpose of, and as necessary to, conduct a  
38 reference check to determine whether it is safe and appropriate to  
39 license, certify, or approve an applicant to be a certified parent,  
40 foster parent, or relative caregiver.

(d) The department may issue a citation and, after the issuance of that citation, may assess a civil penalty of fifty dollars (\$50) per day for each instance of a foster family agency's failure to provide the department with the information required by subdivision (h) of Section 88061 of Title 22 of the California Code of Regulations.

(e) The Legislature encourages the department, when funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding family homes.

(2) A log of family homes certified and decertified, provided by a foster family agency to the department.

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home due to any of the following actions by the certified family parent:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.

(D) Being convicted of a crime while a certified family parent.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

(f) At least annually, the department shall post to its Internet Web site a *statewide summary progress report with of the data that excludes personally identifiable information of the information gathered pursuant to Section 1538.8. Sections 1538.8 and 1538.9. The summary report shall exclude all personally identifiable information and shall not identify individual group homes.*

SEC. 2. Section 1538.8 is added to the Health and Safety Code, to read:

1538.8. (a) In order to identify group homes in which psychotropic medications may be inappropriately administered to children the director shall compile, at least annually, the following information concerning each home:

1 (1) The number of children in the facility to whom psychotropic  
2 medications were administered.

3 (2) The number of children in the facility who are 6 to 11 years  
4 of age, inclusive, to whom psychotropic medications were  
5 administered.

6 (3) The number of children in the facility who are 12 to 17 years  
7 of age, inclusive, to whom psychotropic medications were  
8 administered.

9 (4) The number of children for whom the juvenile court  
10 preauthorized the administration of psychotropic medication.

11 (5) The number of children to whom psychotropic medications  
12 were administered on an emergency basis.

13 (6) The number of children to whom antipsychotic, mood  
14 stabilizing, or antidepressant medications were administered.

15 (7) The number of children who received two or more drugs  
16 from the same class, including, but not limited to, antidepressants,  
17 antipsychotics, and antianxiety medications.

18 (8) The number of children who received two or more  
19 psychotropic medications concurrently, and whether those children  
20 received two, three, four, or more than four psychotropic  
21 medications concurrently.

22 (9) The number of children who received one or more  
23 medications for more than 90 days.

24 (10) The number of children who received psychosocial services  
25 while in a group home placement while they received a  
26 psychotropic medication.

27 (11) The number of children who received a dosage of a  
28 psychotropic medication at a dosage above the maximum dosage  
29 approved by the federal Food and Drug Administration.

30 (12) The number of children who received metabolic monitoring  
31 in accordance with professional standards of care while they  
32 received psychotropic medication.

33 (13) The number of children who were prescribed antipsychotic  
34 medications for a use not approved by the federal Food and Drug  
35 Administration.

36 (b) The data in subdivision (a) concerning psychotropic  
37 medication, mental health services, and placement shall be drawn  
38 from existing data systems, including, but not limited to, the  
39 Medicaid Management Information System's medical and  
40 pharmacy claims data, and the Child Welfare Services/Case

1 Management System, through the data sharing agreement between  
2 the State Department of Health Care Services and the State  
3 Department of Social Services.

4 SEC. 3. Section 1538.9 is added to the Health and Safety Code,  
5 to read:

6 1538.9. (a) (1) (A) ~~The department, based upon the~~  
7 ~~information compiled pursuant to Section 1538.8, department~~ shall  
8 consult with the foster care ombudsman and ~~stakeholder quality~~  
9 ~~improvement workgroups~~ *the Quality Improvement Project Clinical*  
10 *Workgroup* to establish a methodology ~~to identify for identifying~~  
11 those group homes that have disproportionately high ~~and~~  
12 ~~inappropriate~~ levels of psychotropic drug usage warranting  
13 additional review of the ~~facility~~. *facility. The criteria for*  
14 *determining if a group home has disproportionately high and*  
15 *inappropriate levels of psychotropic drug usage shall be based*  
16 *upon the California Guidelines for the Use of Psychotropic*  
17 *Medication with Children and Youth in Foster Care and shall take*  
18 *into consideration, among other things, the factors listed in*  
19 *paragraphs (1) to (13), inclusive, of subdivision (a) of Section*  
20 *1538.8. The methodology shall be adopted on or before July 1,*  
21 *2016.*

22 (B) ~~On or after January 1, 2020, Every three years after adopting~~  
23 ~~the methodology developed under subparagraph (A), or earlier if~~  
24 ~~needed, the department shall consult with the foster care~~  
25 ~~ombudsman and stakeholder quality improvement workgroups~~  
26 ~~and the Quality Improvement Project Clinical Workgroup and~~  
27 ~~revise, if necessary, revise the methodology developed under~~  
28 ~~subparagraph (A). methodology.~~

29 (2) *If the department, applying the methodology described in*  
30 *paragraph (1), determines that a facility appears to have*  
31 *disproportionately high and inappropriate levels of psychotropic*  
32 *drug usage, which may be caused by, among other things,*  
33 *inadequate alternative and less invasive psychosocial services,*  
34 *crisis management, and other services, it shall inspect the facility*  
35 *at least once a year.*

36 (2) ~~The department shall visit facilities identified in paragraph~~  
37 ~~(1) at least once a year to review the facilities' plans of operation,~~  
38 ~~policies, procedures, practices, child-to-staff ratios, staff~~  
39 ~~qualifications and training, implementation of children's needs~~  
40 ~~and services plan, and other factors that the department determines~~

1 ~~contribute to the high utilization of dangerous psychotropic~~  
2 ~~medication regimens and low utilization of monitoring and~~  
3 ~~psychosocial services.~~

4 (3) *The inspection of the facility shall include, but not be limited*  
5 *to, the following:*

6 (A) *A review of the facility's:*

7 (i) *Plan of operation, policies, procedures, and practices.*

8 (ii) *Child-to-staff ratios.*

9 (iii) *Staff qualifications and training.*

10 (iv) *Implementation of children's needs and services plan.*

11 (v) *Availability of psychosocial and other alternative treatments*  
12 *to the use of psychotropic medications.*

13 (vi) *Other factors that the department determines contribute to*  
14 *disproportionately high and inappropriate levels of psychotropic*  
15 *drug usage.*

16 (B) *Confidential interviews with youth residing in the facility*  
17 *at the time of the inspection, with youth who resided in the facility*  
18 *within the last six months, and confidential discussions with*  
19 *physicians identified as prescribing the medications. The State*  
20 *Department of Health Care Services and the State Department of*  
21 *Social Services shall, using existing data systems, identify*  
22 *prescribers' names, addresses, and contact information in order*  
23 *to facilitate interviews with prescribers.*

24 ~~(3) The department shall perform visits pursuant to paragraph~~  
25 ~~(2) with input from stakeholders, including, but not limited to, the~~  
26 ~~foster care ombudsman and foster care mental health ombudsman,~~  
27 ~~foster youth, foster youth advocates, county welfare departments,~~  
28 ~~and county mental health departments.~~

29 ~~(4) The department shall include in each visit confidential~~  
30 ~~discussions with current and former foster youth placed in the~~  
31 ~~facility's care and confidential discussions with physicians~~  
32 ~~identified as prescribing the medications. The State Department~~  
33 ~~of Health Care Services and the State Department of Social~~  
34 ~~Services shall, using existing data systems, identify prescribers'~~  
35 ~~names, addresses, and contact information in order to facilitate~~  
36 ~~interviews with providers.~~

37 (b) *If, during a visit as a result of an inspection pursuant to*  
38 *subdivision (a), the department finds, based on measures*  
39 *established pursuant to this section, that the facility has a high*  
40 *utilization of dangerous psychotropic medication regimens, based*

1 ~~on measures established pursuant to this section and~~  
2 ~~disproportionately high and inappropriate levels of psychotropic~~  
3 ~~drug usage, which may be caused by, among other things,~~  
4 ~~inadequate alternative, alternative and less invasive psychosocial,~~  
5 ~~psychosocial services, crisis management, and other services, the~~  
6 facility shall submit to the department a plan ~~to address of~~  
7 ~~correction describing the steps that the facility it shall take to~~  
8 ~~reduce or eliminate inappropriate prescribing and treatment~~  
9 ~~regimens within 60 days of the visit. psychotropic drug usage. The~~  
10 ~~plan of correction shall be submitted to the department within 30~~  
11 ~~days after the facility has received the department's notice of a~~  
12 ~~determination of disproportionately high and inappropriate levels~~  
13 ~~of psychotropic drug usage at the facility. The plan shall do the~~  
14 ~~following:~~ of correction may include, but not be limited to, the  
15 following:

16 (1) ~~Include an~~ An improved crisis management plan, including  
17 deescalation techniques and procedures in which their staff will  
18 be trained.

19 (2) ~~Include an~~ An overall behavioral management plan which  
20 shall be a trauma-informed plan.

21 (3) ~~Identify a~~ A quantifiable goal to decrease the use of  
22 antipsychotic medications for behavioral control, to decrease  
23 polypharmacy, and to decrease the use of pro re nata medications.

24 (4) ~~Identify a~~ A quantifiable goal ~~of for improving~~ appropriate  
25 metabolic monitoring as set forth in the ~~state prescribing guidelines~~  
26 *California Guidelines for the Use of Psychotropic Medication with*  
27 *Children and Youth in Foster Care*, and *increasing* psychosocial,  
28 physical, mental, behavioral, and nutritional services for children  
29 ~~previously or currently~~ prescribed psychotropic medications while  
30 placed in that facility.

31 (c) The department shall monitor a facility's implementation of  
32 the plan submitted pursuant to subdivision (b) to determine all of  
33 the following:

34 (1) Whether the facility has reduced the rate at which residents  
35 are administered pro re nata, multiple, and off-label psychotropic  
36 medications, and, if so, the percentage decrease in the  
37 administration of those medications.

38 (2) Whether and to what extent alternative, less invasive  
39 treatments are being provided to residents, and, if so, the percentage  
40 increase in the provision of those services.



1 (3) Whether and to what extent appropriate metabolic monitoring  
2 is being conducted and, if so, the percentage increase in the  
3 provision of appropriate monitoring.

4 (d) (1) Following an inspection pursuant to subdivision (a), the  
5 Community Care Licensing Division shall provide a report to the  
6 department's Children and Family Services Division and to any  
7 other public agency that has certified the facility's program or any  
8 component of the facility's program, including, but not limited to,  
9 the State Department of Health Care Services, which certifies  
10 group homes pursuant to Section 4096.5 of the Welfare and  
11 Institutions Code.

12 (2) *If, as a result of the inspection, the Community Care*  
13 *Licensing Division suspects that a prescriber has failed to comply*  
14 *with Section 2242 of the Business and Professions Code, or with*  
15 *the California Guidelines for the Use of Psychotropic Medication*  
16 *with Children and Youth in Foster Care, it shall report its concerns*  
17 *to the Medical Board of California.*

18 (3) *If, as a result of the inspection, the Community Care*  
19 *Licensing Division suspects there has been a violation of applicable*  
20 *requirements prescribed by statutes or regulations of this state, it*  
21 *shall conduct the appropriate investigation pursuant to Section*  
22 *1538 of the Health and Safety Code.*

23 (e) (1) Notwithstanding the rulemaking provisions of the  
24 Administrative Procedure Act (Chapter 3.5 (commencing with  
25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
26 Code), until emergency regulations are filed with the Secretary of  
27 State, the department may implement this section through  
28 all-county letters or similar instructions from the director.

29 (2) On or before January 1, 2017, the department shall adopt  
30 regulations to implement this section. The initial adoption,  
31 amendment, or repeal of a regulation authorized by this subdivision  
32 is deemed to address an emergency, for purposes of Sections  
33 11346.1 and 11349.6 of the Government Code, and the department  
34 is hereby exempted for that purpose from the requirements of  
35 subdivision (b) of Section 11346.1 of the Government Code. After  
36 the initial adoption, amendment, or repeal of an emergency  
37 regulation pursuant to this section, the department may twice  
38 request approval from the Office of Administrative Law to readopt  
39 the regulation as an emergency regulation pursuant to Section

1 11346.1 of the Government Code. The department shall adopt final  
2 regulations on or before January 1, 2018.

3 *(f) Nothing in this section is intended to replace or alter other*  
4 *requirements for responding to complaints and making inspections*  
5 *or visits to group homes, including, but not limited to, those set*  
6 *forth in Sections 1534 and 1538.*

7 SEC. 4. Section 11469 of the Welfare and Institutions Code is  
8 amended to read:

9 11469. (a) The department, in consultation with group home  
10 providers, the County Welfare Directors Association of California,  
11 the Chief Probation Officers of California, the California Mental  
12 Health Directors Association, and the State Department of Health  
13 Care Services, shall develop performance standards and outcome  
14 measures for determining the effectiveness of the care and  
15 supervision, as defined in subdivision (b) of Section 11460,  
16 provided by group homes under the AFDC-FC program pursuant  
17 to Sections 11460 and 11462. These standards shall be designed  
18 to measure group home program performance for the client group  
19 that the group home program is designed to serve.

20 (1) The performance standards and outcome measures shall be  
21 designed to measure the performance of group home programs in  
22 areas over which the programs have some degree of influence, and  
23 in other areas of measurable program performance that the  
24 department can demonstrate are areas over which group home  
25 programs have meaningful managerial or administrative influence.

26 (2) These standards and outcome measures shall include, but  
27 are not limited to, the effectiveness of services provided by each  
28 group home program, and the extent to which the services provided  
29 by the group home assist in obtaining the child welfare case plan  
30 objectives for the child.

31 (3) In addition, when the group home provider has identified  
32 as part of its program for licensing, ratesetting, or county placement  
33 purposes, or has included as a part of a child's case plan by mutual  
34 agreement between the group home and the placing agency,  
35 specific mental health, education, medical, and other child-related  
36 services, the performance standards and outcome measures may  
37 also measure the effectiveness of those services.

38 (b) Regulations regarding the implementation of the group home  
39 performance standards system required by this section shall be  
40 adopted no later than one year prior to implementation. The

1 regulations shall specify both the performance standards system  
2 and the manner by which the AFDC-FC rate of a group home  
3 program shall be adjusted if performance standards are not met.

4 (c) Except as provided in subdivision (d), effective July 1, 1995,  
5 group home performance standards shall be implemented. Any  
6 group home program not meeting the performance standards shall  
7 have its AFDC-FC rate, set pursuant to Section 11462, adjusted  
8 according to the regulations required by this section.

9 (d) A group home program shall be classified at rate  
10 classification level 13 or 14 only if all of the following are met:

11 (1) The program generates the requisite number of points for  
12 rate classification level 13 or 14.

13 (2) The program only accepts children with special treatment  
14 needs as determined through the assessment process pursuant to  
15 paragraph (2) of subdivision (a) of Section 11462.01.

16 (3) The program meets the performance standards designed  
17 pursuant to this section.

18 (e) Notwithstanding subdivision (c), the group home program  
19 performance standards system shall not be implemented prior to  
20 the implementation of the AFDC-FC performance standards  
21 system.

22 (f) On or before January 1, 2016, the department, in consultation  
23 with the County Welfare Directors Association of California, the  
24 Chief Probation Officers of California, the California Mental  
25 Health Directors Association, research entities, foster youth,  
26 advocates for foster youth, foster care provider business entities  
27 organized and operated on a nonprofit basis, Indian tribes, and  
28 other stakeholders, shall develop additional performance standards  
29 and outcome measures that require group homes to implement  
30 programs and services to minimize law enforcement contacts and  
31 delinquency petition filings arising from incidents of allegedly  
32 unlawful behavior by minors occurring in group homes or under  
33 the supervision of group home staff, including individualized  
34 behavior management programs, emergency intervention plans,  
35 and conflict resolution processes.

36 (g) On or before January 1, 2017, the department, in consultation  
37 with the County Welfare Directors Association of California, the  
38 Chief Probation Officers of California, the California Mental  
39 Health Directors Association, research entities, foster youth,  
40 advocates for foster youth, foster care provider business entities

1 organized and operated on a nonprofit basis, Indian tribes, and  
2 other stakeholders, shall develop additional performance standards  
3 and outcome measures that require group homes to implement  
4 programs and services to reduce the utilization of psychotropic  
5 medications for children in group homes, including individualized  
6 behavior management programs, emergency intervention plans,  
7 and conflict resolution processes.

8 SEC. 5. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.